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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,247	12/27/2000	Fumito Takemoto	2091-0226P	4716
7590	12/21/2004		EXAMINER	
BIRCH, STEWART, KOLASCH & BIRCH, LLP P.O. BOX 747 FALLS CHURCH, VA 22040-0747			WU, JINGGE	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/748,247	<b>Applicant(s)</b> TAKEMOTO, FUMITO	
	<b>Examiner</b> Jingge Wu	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 June 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/5/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

Applicants' response to the last Office Action, filed June 28, 2004 has been entered and made of record.

Applicants' amendment has required new grounds of rejection. New grounds rejection are therefore presented in the Office Action.

Applicant's arguments with respect to claims 1-6 have been fully considered but are moot in view of the new ground(s) of rejection. The Examiner likes to point out the Adjustable reference teaches a light fixture for "Hang it wherever light needed" (see bottom of the Adjustable reference).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, 12-13, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 409172553A to Segawa in view of JP 8221546 to Masayuki (a reference of PTO 1449).

As to claim 1, Sagawa discloses an image processing method comprising:  
receiving selection of a target image (one of the reference image) having a desired color tone from a plurality of reference images, each including the same image, each having a different color-tone (abstract, 0007-0009, note that the reference images are the same image with different tones and colors);

receiving specification of an image in an image display (fig. 5, 0013); and changing color tone of a specified image to the target color tone of the selected image (figs. 8-9, 0018-0019).

Sagawa does not explicitly mention selecting an area from the image.

Masayuki, in an analogous environment, discloses selecting an area of an image and then to match the color tone of the area with a desired tone.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the scheme of Masayuki in the method of Sagawa in order to process the color matching easily for a user without any special knowledge or technique (Masayuki, abstract).

As to claim 2, Sagawa further discloses generating plurality of reference images before receiving the selection of the target image (abstract).

As to claims 3-6, 7-8, 12-13, 17-18 the claims are corresponding image processing apparatus, computer readable medium, image processing method, claims to claims 1-2, and the discussion is addressed with regard to claims 1-2.

Claims 9-11, 14-16, 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Segawa and Masayuki, further in view of US 5461457 to Nakamura and US 6463172 to Yoshimura (a reference of record).

As to claim 9-11, 14-16, 19-21, the combination of Segawa and Masayuki does not explicitly mention the face and the cumulative histogram.

Nakamura, in an analogous environment, discloses the human face (fig. 4b) and using histograms to correct the colors of the faces (col. 4 lines 38-col. 5 line 14).

Yoshimura, in an analogous environment, further discloses changing histogram of the target image to the histogram of the reference image (col. 4 lines 42-52).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the schemes of Nakamura and Yoshimura in the method of Sagawa in order to process the color matching easily for a user without any special knowledge or technique (Sagawa, abstract, Yoshimura and Nakamura, abstract).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications should be directed to Jingge Wu whose telephone number is (703) 308-9588. He can normally be

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reached Monday through Thursday from 8:00 am to 5:30 pm. The examiner can be also reached on second alternate Fridays.

Any inquiry of a general nature or relating to the status of this application should be directed to TC customer service whose telephone number is (703) 306-0377.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Amelia Au, can be reached at (703) 308-6604.

The Working Group Fax number is (703) 872-9314.

**Jingge Wu**

**Primary Patent Examiner**

